

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

**ANDREW VARCAK,**

Plaintiff,

v.

**ENVOY MORTGAGE LTD.,**

Defendant.

No. 3:19-cv-00954-AC

OPINION AND ORDER

**MOSMAN, J.,**

On November 22, 2019, Magistrate Judge John V. Acosta issued his Findings and Recommendation (“F&R”) [ECF 21], recommending that I grant Defendant’s Motion to Dismiss [ECF 9] on the grounds that this court should decline to exercise jurisdiction under the Declaratory Judgment Act (“DJA”). No objections were filed.

**LEGAL STANDARD**

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of


the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

### CONCLUSION

Upon review of the F&R, I agree with Judge Acosta's reasoning and conclusions. Therefore, I ADOPT the F&R [21] as my own opinion. I GRANT Defendant's Motion to Dismiss [9] because I decline to exercise jurisdiction under the DJA. As a result, this case is DISMISSED with prejudice.

IT IS SO ORDERED.

DATED this 17 day of December, 2019.

  
MICHAEL W. MOSMAN  
Chief United States District Judge